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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/814,830

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Charles Edward Baumgartner

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EXAMINER

RAMIREZ, JOHN FERNANDO

ART UNIT

PAPER NUMBER

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MAIL DATE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: CHARLES BAUMGARTNER, GEORGE SOGOIAN and
ROBERT LEWANDOWSKI

Application No. 10/814,830
Technology Center 3700

Mailed: December 30, 2009

Before TOI JOHNSON *Review Paralegal*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on December 14, 2009, 2009. A review of the application revealed that it is not ready for docketing as an appeal.

Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, CLAIMS APPENDIX

A review of the Appeal Brief filed April 13, 2007 reveals that claim 18 and 23 in the Claims Appendix of the Appeal Brief are not consistent as amended in the last entered amendment filed on April 13, 2006. The copy of the claims should be in proper format and should not include any markings such as brackets or underlining except for claims in a reissue application in accordance with 37 CFR 41.37(c)(1)(viii). Furthermore, the Claims Appendix cannot assume entry of After Final Submissions for which an Advisory Action (or other Office communication) has not advised of entry. *See also Manual of Patent Examining Procedure (MPEP) § 1205.02* (8th ed. Rev. 6, Sept 2007) for details.

Specifically, claims 18 and 23 as provided in the Brief's Claims Appendix, reads:

18. A method of manufacture, comprising:

providing an ultrasound unit having an ultrasound transducer to scan a subject and a physical sensor to non-ultrasonically detect proximity of a subject relative to the ultrasound unit; and

providing a control system to change power levels of the ultrasound unit based on the feedback from the physical sensor.

23. An ultrasound system, comprising:

means for sensing non-ultrasonic signals to detect physically detecting proximity of an ultrasound module relative to a subject to be scanned by ultrasonic transducers of the ultrasound module; and

means for switching power modes of the ultrasound probe based on proximity feedback from the means for sensing.

However, in the last entered Amendment dated April 13, 2006, claims

18 and 23, reads:

18. (currently amended) A method of manufacture, comprising:

providing an ultrasound unit having an ultrasound transducer to scan a subject and a physical sensor to non-ultrasonically detect proximity of a subject relative to the ultrasound unit; and

providing a control system to change power levels of the ultrasound unit based on the feedback from the physical sensor.

23. (currently amended) An ultrasound system, comprising:

means for sensing non-ultrasonic signals to detect ~~physically detecting~~ proximity of an ultrasound module relative to a subject to be scanned by ultrasonic transducers of the ultrasound module; and

means for switching power modes of the ultrasound probe based on proximity feedback from the means for sensing ~~physically detecting~~.

Appropriate correction of all claims provided in the Claims Appendix in proper format is required.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed in this application on July 6, 2009. There is no evidence on the record indicating that the Examiner has considered the

Application No. 10/814,830

Reply Brief in accordance with 37 CFR CFR § 41.43(a)(1) and MPEP § 1208, part II.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed April 13, 2007 defective, as required by 37 CFR § 41.37(d);
- 2) notify the Appellant to submit a “paper” which corrects the Appeal Brief’s Claims Appendix under 37 CFR §41.37(c)(1)(viii);
- 3) acknowledge and consider any “paper” submitted by Appellant to correct the Appeal Brief;
- 4) consider the Reply Brief filed July 6, 2009 as indicated above; and
- 5) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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